

REMARKS

I. Allowable Subject Matter

The Examiner has stated in the Office Action that claims 17-23 are in condition for allowance. Applicant thanks the Examiner for this notice.

II. Amendment to the Specification and Drawings

A. Typographical Error/Grammatical Mistake in Specification

The amendment of the paragraph beginning on page 7, line 8 and ending on page 8, line 18 corrects a typographical error and/or grammatical mistake. The corrections of the typographical error and/or grammatical mistake and do not add any new matter to the specification.

The amendment of the paragraph beginning on page 9, line 9 and ending on page 9, line 24 corrects a typographical error and/or grammatical mistake. The corrections of the typographical error and/or grammatical mistake and do not add any new matter to the specification.

The amendment of the paragraph beginning on page 10, line 5 and ending on page 11, line 6 corrects a typographical error and/or grammatical mistake. The corrections of the typographical error and/or grammatical mistake and do not add any new matter to the specification.

The amendment of the paragraph beginning on page 11, line 7 and ending on page 11, line 21 corrects a typographical error and/or grammatical mistake. The corrections of the typographical error and/or grammatical mistake and do not add any new matter to the specification.

The amendment of the paragraph beginning on page 11, line 22 and ending on page 12, line 1 corrects a typographical error and/or grammatical mistake. The corrections of the typographical error and/or grammatical mistake and do not add any new matter to the specification.

B. Claimed Features

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a) and 37 C.F.R. § 1.84(p), concluding that each of the features must be shown or the feature(s) canceled from the claim(s). The Examiner has pointed out that the features of claims 4 and 5 are not illustrated in the drawings. In response, Applicant has cancelled these claims.

Additionally, the Examiner has pointed out that numeral reference 23 is not shown in the drawings although it is disclosed in the specification. While this feature did not have a reference number in the originally filed drawings, this feature is particularly illustrated in Figures 1, 2, 5, and 6 and disclosed by the specification. Therefore, to ensure that the illustrated features are specifically identified by the specification, a reference number has been assigned to this feature and added to Figure 1. It is believed that the drawings as formally filed with this amendment are in acceptable form because the drawings show every feature of the invention specified in the claims. The addition of the reference number to Figure 1 is not new matter because the feature is shown in the originally filed illustrations and is described in the specification. Accordingly, Applicant respectfully submits that the objections to the drawings have been obviated and should now be withdrawn.

III. Amendment to the Claims

Upon entry of the foregoing amendment, claims 1-3 and 5-26 are pending in the application. Of the pending claims, claims 1, 17, 20, 23, and 24 are independent.

A. Claim Rejections under 35 U.S.C. § 112

Claims 24 and 25 are rejected under 35 U.S.C. §112, second paragraph. Claim 24 inadvertently included a period instead of a semi-colon at the end of line 22. Applicant has amended claim 24 to correct this inadvertent error. Claim 25 inadvertently claimed dependency from claim 22 instead of claim 24. Applicant has amended claim 25 to correct this inadvertent error. The foregoing claim amendments have corrected the claim language to more particularly point out and distinctly claim the subject matter of the present invention. Accordingly, Applicant respectfully submits that the rejections of these claims have been obviated and should now be withdrawn.

B. Claim Rejections under 35 U.S.C. § 102(b)

Claims 1, 3, 11, 12, and 13 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,518,359 (“the ‘359 patent”). To anticipate a claim, the reference must teach every element of the claim. See MPEP 2131. Claim 1 has been amended to include the limitation of an “upper jaw located intermediate to said first lower fork and said second lower fork.” The ‘359 patent does not teach this claim limitation. Because the ‘359 patent does not teach at least an “upper jaw located intermediate to said first lower fork and said second lower fork,” the ‘359 patent cannot anticipate claim 1. Because claims 3, 11, 12, and 13 depend from claim 1 and include all of the limitations thereof, these claims are also not anticipated. Moreover, claims 3, 11, 12, and 13 include additional structural and functional limitations which

distinguish these claims over the prior art. Therefore, Applicant respectfully requests that this rejection be withdrawn.

C. Claim Rejections under 35 U.S.C. § 102(e)

Claims 1, 2, 4, 5 and 13 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,820,357 (“the ‘357 patent”). In this case, the present application claims priority to U.S. Provisional Patent Application No. 60/468,315 filed on May 6, 2003. The ‘357 patent was filed on December 2, 2003. Thus, the priority date of the present application predates the reference. In accordance with MPEP 706.02(b), Applicant submits that it has met all of the requirements of 35 U.S.C. §119(e) and 37 C.F.R. § 1.78(a) and respectfully requests that this rejection be withdrawn.

D. Rejections under 35 U.S.C. § 103

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over the ‘359 patent in view of the ‘357 patent. For a prima facie case of obviousness, the prior art references must teach or suggest all of the claim limitations. See MPEP 2142. Claim 9 depends from claim 1, and claim 1 has been amended to include the limitation of an “upper jaw located intermediate said first lower fork and said second lower fork.” Because the prior art references do not teach or suggest this claim limitation, claim 9 must be viewed as non-obvious. Applicant courteously requests that this claim rejection be withdrawn.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over the ‘359 patent in view of U.S. Patent No. 6,357,993 (“the ‘993 patent”). For a prima facie case of obviousness, the prior art references must teach or suggest all of the claim limitations. See MPEP 2142. Claim 10 depends from claim 1, and claim 1 has been amended to include the limitation of an “upper jaw located intermediate said first lower fork and said second lower fork.” Because the

prior art references do not teach or suggest this claim limitation, claim 10 must be viewed as non-obvious. Applicant courteously requests that this claim rejection be withdrawn.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the '357 patent. For the reasons noted above, the '357 patent is not a prior art reference under 35 U.S.C. §102(e). A 35 U.S.C. 103 rejection is based upon prior art available under 35 U.S.C. 102. See MPEP 2141.01. Because the '357 patent is not a reference under 35 U.S.C. 102, Applicant submits that it is also not a reference under 35 U.S.C. 103. Applicant courteously requests that this claim rejection be withdrawn.

IV. Conclusion

Accordingly, Applicant respectfully submits that independent claims 1, 17, 20, 23, and 24 are allowable over the prior art of record. For similar reasons, and for the additional reasons set forth above, Applicant urges that the dependent claims are also allowable.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, he is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,



By: David A. Chambers, Reg. No. 50,788
Husch & Eppenberger, LLC
190 Carondelet Plaza
St. Louis, MO 63105
309-497-3204
314-480-1505 FAX

Amendments to the Drawings

The attached drawing sheet includes changes to Figure 1. Specifically, numeral reference "23" has been added to Figure 1. The drawing modifications are in accord with the specification and are made only for clarity. No new matter has been added. The attached sheet replaces the original drawing sheet, which included Figure 1.

Attachment: Replacement Sheet